

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

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CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY

COMMUNICATIONS WORKERS OF §  
AMERICA, AFL-CIO, §  
PLAINTIFF, §

CAUSE NO. A-17-CV-1221-LY

V. §

SOUTHWESTERN BELL TELEPHONE §  
COMPANY, AT&T SERVICES, INC., §  
AND DIRECTV, LLC, COLLECTIVELY §  
A/K/A AT&T SOUTHWEST, §  
DEFENDANTS. §

**ORDER ON REPORT AND RECOMMENDATION**

Before the court are Defendants' Joint Motion to Dismiss, Motion for Judgment on the Pleadings, or Alternative Motion to Compel Arbitration filed January 26, 2018 (Doc. #7); Plaintiff's Response to Defendants' Joint Motion to Dismiss, Motion for Judgment on the Pleadings, or Alternative Motion to Compel Arbitration filed March 2, 2018 (Doc. #11); and Defendants' Reply in Support of their Joint Motion to Dismiss, Motion for Judgment on the Pleading, or Alternative Motion to Compel Arbitration filed March 8, 2018 (Doc. #14). The motion, response, and reply were referred to the United States Magistrate Judge for a Report and Recommendation as to the merits pursuant to 28 U.S.C. § 636(b), Rule 72 of the Federal Rules of Civil Procedure, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas.

The magistrate judge filed his Report and Recommendation on June 12, 2018 (Doc. #15), recommending that this court grant Defendants' joint motion to dismiss and dismiss the case for lack of subject-matter jurisdiction.

Plaintiff's Objections to Report and Recommendations of Magistrate Judge were filed June 26, 2018 (Doc. #16). Defendants' Opposition to Plaintiff's Objections to the United States Magistrate Judge's Report and Recommendation was filed July 6, 2018 (Doc. #17). In light of Plaintiff's objections, the court has undertaken a *de novo* review of the entire case file and finds that the magistrate judge's Report and Recommendation should be approved and accepted by the court for substantially the reasons stated therein.

Plaintiff contends that the magistrate judge failed to consider Plaintiff's claim that the article in the applicable collective-bargaining agreement cited in Plaintiff's complaint is not subject to arbitration and that the magistrate judge improperly reached the merits beyond the scope of Defendants' motion. Defendants assert that the magistrate judge properly considered the article cited in Plaintiff's complaint, but correctly determined that Plaintiff's complaint challenging employee layoffs and subcontracting was governed by other articles subject to arbitration under the applicable collective-bargaining agreement. Thus, Defendants' argue, the magistrate judge did not reach the merits of Plaintiff's claims. The court agrees. Therefore,

**IT IS ORDERED** that Plaintiff's Objections to Report and Recommendations of Magistrate Judge were filed June 26, 2018 (Doc. #16) are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation of the United States Magistrate Judge (Doc. #15) is **ACCEPTED AND ADOPTED** by the court for as stated herein.

**IT IS FURTHER ORDERED** that Defendants' Joint Motion to Dismiss, Motion for Judgment on the Pleadings, or Alternative Motion to Compel Arbitration filed January 26, 2018 (Doc. #7) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff Communications Workers of America, AFL-CIO's cause of action is **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction.

A Final Judgment shall be rendered subsequently.

SIGNED this 11<sup>th</sup> day of September, 2018.

  
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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE